

SECTION 01 00 15

DESIGN AFTER AWARD

12/11

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PART 1: GENERAL

1.1 CONTRACT DOCUMENTS

The contract entails (1) the solicitation/Request for Proposal (RFP) in its entirety, including all drawings, specifications, cuts, and illustrations, and any amendments issued prior to award, and (2) the successful offeror's accepted proposal, to the extent it meets or exceeds the other requirements of the contract. Any portion of the contractors proposal which does not comply with the contract is not part of the contract and in no way changes the contract terms or conditions.

The contract documents, including referenced standards and criteria, establish the MINIMUM standards which the contractor must comply with in the performance of the work.

1.2 ORDER OF PRECEDENCE (DESIGN-BUILD)

Reference is made to Contract Clause Order of Precedence. This paragraph supplements and clarifies the Order of Preference for the documents associated with this contract. In the event of conflict or inconsistency between any of the provisions of this contract, precedence shall be given in the following order:

- (1) Betterments: Any portions of the accepted proposal that both conform to and exceed the provisions of the solicitation.
- (2) The provisions of the solicitation, plus amendments, if applicable. The order of precedence within these documents is:
  - a. Request for Proposal or Solicitation Document
  - b. Scope of Work
  - c. Specifications
  - d. Special Requirements and/or Special Technical Requirements
  - e. Drawings
  - f. Referenced Design Guides (eg Army Family Housing Design Guide)
  - g. Studies/design analysis or any other planning document included in the solicitation documents.
- (3) If this is a delivery order under a basic ID/IQ type delivery order contract, the base contract documents.
- (4) All other provisions of the contractors accepted proposal which are in compliance with the contract documents.
- (5) Any design products prepared or obtained by the contractor, including, but not limited to, plans, specifications, engineering studies and analyses, shop drawings, equipment installation drawings, etc.

In case of conflicting requirements within documents of the same order of precedence (i.e. standards referenced in a specifications conflict), the more stringent criteria shall govern.

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### 1.3 REFERENCED STANDARDS

All work shall be designed and constructed in accordance with the standards and building codes as described in the contract. Reference Specification Section 00 73 15 General Conditions, paragraph REFERENCED STANDARDS.

### 1.4 PAYMENT

Separate payment will not be made for compliance with this specification. All costs associated therewith shall be included in the applicable unit prices or lump-sum prices contained in the Bidding Schedule, and reflected in the appropriate pay activities in the schedule.

### 1.5 RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN

The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Contractor under this contract.

The standard of care for all design services performed under this agreement shall be the care and skill ordinarily used by members of the architectural or engineering professions practicing under similar conditions at the same time and locality. Notwithstanding the above, in the event that the contract specifies that portions of the work be performed in accordance with a performance standard, the design services shall be performed so as to achieve such standards.

#### 1.5.1 Designer of Record

The contractor shall identify, by name, the Designer of Record (DOR) for the designs prepared under this project. The DOR must be licensed and legally able to certify that the designs are in compliance with the contract and were prepared by people authorized to perform the design works which they prepared. DOR responsibilities are separate from and independent of, the Quality Control requirements specified elsewhere in the contract.

DOR approval is required for, at a minimum: (a) designs and extensions of design, (b) critical materials, (c) any deviations from the solicitation, the accepted proposal, or the completed design, and (d) equipment whose compatibility with the entire system must be checked.

#### 1.5.2 Licensure to Perform Design

The contractor shall be legally licensed to perform design work in the jurisdiction for which the design services are provided and in the jurisdiction (i.e. country) where the construction is performed.

#### 1.5.3 Design Staff

The contractor shall be responsible for the identification of required design staff and specialists. All designs shall be performed under the

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general supervision of a registered architect, registered professional engineer, or recognized consultants and approved by the same.

### 1.5.4 Correction of Deficiencies

The Contractor shall, without additional compensation, correct or revise any errors or deficiency in its designs, drawings, specifications, and other services and perform any necessary rework or modifications, including repair or replacement of any damage to real or personal property, resulting from the design error or omission.

### 1.5.5 Contractor Liability for Damages

The Contractor shall be and remain liable to the Government for all damages to the Government caused by the Contractor's negligent performance of any of these services furnished under this contract.

If the Contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.

## 1.6 WARRANTY OF DESIGN

The Contractor warrants that the design shall be performed in accordance with the Contract requirements. Design and design related construction not conforming to the Contract requirements shall be corrected at no additional cost to the Government. The standard of care for design is defined in paragraph RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN.

The period of this warranty shall commence upon final completion and the Government's acceptance of the work, or in the case of the Government's beneficial occupancy of all or part of the work for its convenience prior to final completion and acceptance, at the time of such occupancy.

This design warranty shall be effective for ten years from the above event, except as indicated in the contract clause LATENT DEFECTS.

## 1.7 UNLIMITED DRAWING RIGHTS

The Government shall have unlimited rights in all drawings, designs, specifications, notes and all other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws.

## 1.8 SUBMITTALS

The contractor shall identify all Designer of Record approval submittals in the submittal register and shall submit, at a minimum, the following in accordance with Section 01 33 00 SUBMITTAL PROCEDURES:

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- SD-05 Complete Design, including all plans and specifications, design analysis, and surveys [Designer of Record Approval/Government Conformance Review of Design]
- SD-01 Contractors Design Staff [For Information Only]

The Government may review any or all Designer of Record approved submittals for conformance to the Solicitation and Accepted Proposal.

All submittals not requiring Design of Record or Government approval will be for information only.

### 1.9 DEVIATIONS

Written approval by the Administrative Contracting Officer (ACO) or Contracting Officer (CO) for any deviations from the Solicitation or Accepted Proposal before the deviation may be incorporated into the design and construction. No other representative of the Government may approve a deviation. Normally, a contract modification must be issued to formally incorporate them as a change to the contract.

Any deviation not specifically identified as such and approved in accordance with Specification Section 01 33 00 Paragraph VARIATIONS is disapproved.

## PART 2: PRODUCTS

Not Used

## PART 3: EXECUTION

### 3.1 GOVERNMENT OVERSIGHT

The extent and character of the work to be done by the Contractor shall be subject to the general oversight, supervision, direction, control, and review by the Contracting Officer.

Government review, approval or acceptance of, or payment for, the services required under this contract shall not be construed as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.

### 3.2 INVOLVEMENT OF KEY PERSONNEL

The Contractor's construction management key personnel shall be actively involved during the design process to effectively integrate the design and construction requirements of this contract. The Contractor's involvement includes, but is not limited to actions such as: integrating the design into the schedule, ensuring constructability and economy of the design, integrating the shop drawing process into the design, executing the material and equipment acquisition to meet the schedule, effectively interfacing the construction and design QC program, and maintaining and providing the design team with accurate, up-to-date redline and as-built documentation. The

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Contractor shall require and manage the active involvement of key trade subcontractors in the above activities.

### 3.3 GENERAL DESIGN INSTRUCTIONS

Contractor prepared design and product requirements must conform to all provisions of the contract. The Contractor shall provide design and construction using the best blend of cost, construction efficiency, system durability, ease of maintenance and environmental compatibility.

#### 3.3.1 Initial Effort

Prior to commencing design, the Government and the Contractor will review the submission and review procedures and discuss the design schedule and any plans for phased completion of the design documents (i.e. design packages).

After receipt of the Notice to Proceed (NTP) the Contractor shall initiate design, comply with all design submission requirements as covered in the RFP and submittal registers, and obtain Government review of each submission.

#### 3.3.2 Surveys, Easements, and Utilities

To the extent the following documents are not included in the contract documents, the Contractor shall be responsible for obtaining and completing any and all surveys required to perform design and execute construction. Typical examples of studies the contractor must perform include, but are not limited to:

- Topographic mapping, including location and elevation of all site features within the project limits such as buildings (new and existing), roadways, pads, other structures, drainage systems, utilities, and invert elevations of sewer lines.
- Available easements
- Utility information
- Geotechnical investigation and/or studies, including subsurface explorations, borings, soil sampling, field and laboratory testing, and water studies

#### 3.3.3 System of Measurement

All designs, surveys, studies, and calculations shall be developed using the most common system of measurement to the Host Nation.

#### 3.3.4 Coordination

The contractor shall coordinate all work with other trades. Work must be organized in a manner that will assure thorough coordination between various details on drawings, between the various sections of the specifications, and between the drawings and specifications. The Contractor shall thoroughly cross-check and coordinate all work until he is professionally satisfied that no conflicts exist, vital information has not been omitted, and that indefinite language open to interpretation has been resolved.

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### 3.3.5 Specifications

The contractor shall prepare specifications as part of the design. Specifications may be any one of the major specification sources such as MASTERSPEC from the American Institute of Architects, SPECTEXT from Construction Specification Institute or Unified Facility Guide Specifications (UFGS), however only one source may be used. The DOR shall edit and expand the appropriate Specifications to ensure all project design requirements, code requirements, and regulatory requirements are met.

### 3.3.6 Cathodic Protection and Earth Resistance

Unless otherwise stated in the contract, the contractor will be responsible for determining whether cathodic protection on buried structures and underground utility systems are needed for special electrical grounding and counterpoise systems, and for gathering the field data necessary for design.

### 3.3.7 Conflicts

Any conflicts, ambiguities, questions or problems encountered by the contractor in following the criteria shall be immediately submitted in writing to the COR with the contractor's recommendations.

## 3.4 REVIEW OF DESIGNS AND OTHER SUBMITTALS

### 3.4.1 Contractor Required Review

Prior to submission of any design or design product to the Government, the DOR shall review the documents to be submitted for completeness, accuracy, and technical compliance, including appropriate design standards. Once they have approved the submittal, the contractors quality control staff shall review the submittal in accordance with Specification Section 01 45 01 Contractor Quality Control. Only after both of these reviews are complete and approved may the contractor submit the documents to the Government.

### 3.4.2 Design Conferences

Review conferences will be held only if necessary to expedite the review process. The Contractor may request a review conference, but the Government shall be under no obligation to conduct or participate in a review conference unless specifically identified in the contract documents. The contractor shall bring the personnel that developed the design submittal to any review conference.

### 3.4.3 Comments

Any comments received by the contractor which they consider a change to the contract must be separately and specifically identified, in writing, to the ACO or CO as such prior to the contractor taking any action in regards the comment. The contractor must explain why their original submittal should be considered to comply with the contract.

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The contractor is specifically directed that any comment regarding "recommendations" or "suggestions" for performing either design or construction is not a requirement and does not have to be either addressed

If the contractor proceeds with incorporating the comment into their design and/or construction without written direction from the ACO or CO to do so, any costs or delay incurred are the sole responsibility of the contractor.

### 3.5 SCHEDULING

Adequate time shall be allowed for review and clearance for construction. Reference is made to specification section 01 33 00 SUBMITTAL PROCEDURES for the minimum specific review periods. If the Contractor fails to submit design submittals in a timely fashion, or repetitively submits design submittals that are not in strict conformance with the contract documents, no part of the time lost due to such actions shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

### 3.6 COMMENCEMENT OF CONSTRUCTION

The contractor may begin demolition or construction on portions of the work for which the Government has issued a written Release for Construction. This may either be noted on the relevant submittal or issued via separate correspondence.

Prior to commencement of demolition or construction, the contractor shall complete all other requirements identified in other specification sections, including, but not limited to, 00 73 15 GENERAL CONDITIONS, and 01 45 01 USACE QUALITY CONTROL.

If the contractor proceeds with demolition or construction without a Release for Construction, no payment will be made for the work so performed.

### 3.7 DESIGN DISCREPANCIES

The Contractor shall be responsible for the correction of incomplete design data, omissions, and design discrepancies which become apparent during construction. The Contractor shall provide a proposed recommendation for correcting a design error, within three (3) calendar days after identification of the discrepancy.

If the Contractor fails to correct the discrepancy or refuses to comply promptly with any directions given by the Government, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Design-Build Contractor.

-- End of Section --